

# Exhibit “A”



20066561

SUM-100

# SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT:****(AVISO AL DEMANDADO):**

FEDEX OFFICE AND PRINT SERVICES, INC., a Corporation; and  
Does 1 through 50, Inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JEANETTA JOHNSON, an individual on behalf of himself and on behalf  
of all persons similarly situated,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
ALAMEDA COUNTY

APR 17 2017

CLERK OF THE SUPERIOR COURT

By

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA  
Oakland

1221 Oak Street, Oakland, CA 94612

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Norman Blumenthal (Bar # 68687)

Blumenthal, Nordrehaug &amp; Bhowmik

2255 Calle Clara, La Jolla, CA 92037

DATE:

(Fecha)

APR 11 2017

Chad Finke

Clerk, by

(Secretario)

Asal Sponsel

Deputy

(Adjunto)

CASE NUMBER:  
(Número del Caso):

RG 17856291

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

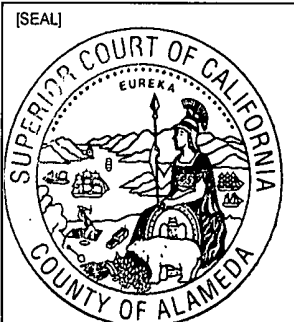
**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):



BY FAX



CM-010

|   |  |
|---|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>Norman Blumenthal (Bar # 68687)</b><br>Blumenthal, Nordrehaug & Bhowmik<br>2255 Calle Clara<br>La Jolla, CA 92037<br>TELEPHONE NO.: (858) 551-1223 FAX NO.: (858) 551-1232<br>ATTORNEY FOR (Name): Plaintiff Jeanetta Johnson | FOR COURT USE ONLY<br><br><b>FILED</b><br><b>ALAMEDA COUNTY</b><br><br><b>APR 11 2017</b><br><br>CLERK OF THE SUPERIOR COURT   |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA<br>STREET ADDRESS: 1221 Oak Street<br>MAILING ADDRESS: 1221 Oak Street<br>CITY AND ZIP CODE: Oakland 94612<br>BRANCH NAME: Oakland  |  |
| CASE NAME: <b>JOHNSON v. FEDEX OFFICE</b>   |  |
| <b>CIVIL CASE COVER SHEET</b><br><input checked="" type="checkbox"/> <b>Unlimited</b><br>(Amount demanded exceeds \$25,000)<br><input type="checkbox"/> <b>Limited</b><br>(Amount demanded is \$25,000 or less)   | <b>Complex Case Designation</b><br><input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b><br>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) |
| BY<br>CASE NUMBER: <b>RG 17856291</b><br>JUDGE: _____<br>DEPT: _____  |  |

Items 1-6 below must be completed (see instructions on page 2).

|   |  |  |
|---|--|--|
| 1. Check one box below for the case type that best describes this case:   |  |  |
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PD/WD (23)<br><b>Non-PI/PD/WD (Other) Tort</b><br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/WD tort (35)<br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input checked="" type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b><br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): TWO (2)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 10, 2017

Norman Blumenthal

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

BY FAX

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

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Attorneys for Plaintiff

**FILED**  
ALAMEDA COUNTY

APR 11 2017

CLERK OF THE SUPERIOR COURT

By 

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA**

JEANETTA JOHNSON, an individual on  
behalf of herself and on behalf of all  
persons similarly situated,

Plaintiff,

vs.

FEDEX OFFICE AND PRINT  
SERVICES, INC., a Corporation; and  
Does 1 through 50, Inclusive,

Defendants.

Case No. **RG 17856291****COMPLAINT FOR:**

1. VIOLATION OF CALIFORNIA  
LABOR CODE § 1198 AND  
CALIFORNIA CODE OF  
REGULATIONS, TITLE 8, SECTION 1  
1070(14) (FAILURE TO PROVIDE  
SEATING); and,

2. VIOLATION OF THE PRIVATE  
ATTORNEYS GENERAL ACT  
[LABOR CODE §§ 2698 et seq.].

**DEMAND FOR A JURY TRIAL****BY FAX**



1 Plaintiff Jeanetta Johnson ("PLAINTIFF"), an individual on behalf of herself, on behalf  
2 of the State of California pursuant to the Private Attorney General Act of 2004, Cal. Lab. Code  
3 § 2698, *et seq.* ("PAGA"), and all other similarly situated current and former aggrieved  
4 employees, alleges on information and belief, except for her own acts and knowledge which are  
5 based on personal knowledge, the following:

6  
7 **THE PARTIES**

8 1. Defendant Fedex Office and Print Services, Inc. ("DEFENDANT") at all relevant  
9 times mentioned herein conducted and continues to conduct substantial and regular business  
10 throughout the State of California.

11 2. DEFENDANT has duplicated its business formula many times over.  
12 DEFENDANT operates some 1,800 stores in the United States. DEFENDANT's stores provide  
13 printing and duplication, presentation support, and related business assistance, and serve as  
14 drop-off points for deliveries to be made by sister companies FedEx Express and FedEx  
15 Ground. DEFENDANT's stores also sell office supplies and rent computers and  
16 videoconferencing rooms. FedEx Office has traditionally targeted small business and home  
17 offices, and individual consumers.

18 3. PLAINTIFF was employed by DEFENDANT in California as a sales associate  
19 from April of 2005 to May of 2016. In connection with her job as a sales associate,  
20 PLAINTIFF regularly worked behind a sales counter, as did other sales associates. From July  
21 2012 to December of 2015, PLAINTIFF worked at DEFENDANT's store located at 9889 San  
22 Pablo Ave., El Cerrito, CA 94530. From December of 2015 to May of 2016, PLAINTIFF  
23 worked at DEFENDANT's store located at 5895 Christie Ave., Emeryville, CA 94608.  
24 PLAINTIFF performed the same tasks at each location she worked for DEFENDANT, these  
25 tasks reasonably permitted sitting, and a seat would not have interfered with PLAINTIFF's  
26 performance of any of her tasks that may have required her to stand. DEFENDANT failed to  
27 provide PLAINTIFF with a suitable seat at both locations she worked for DEFENDANT. The  
28

1 amount in controversy for PLAINTIFF individually does not exceed the sum or value of  
2 \$75,000.

3 4. PLAINTIFF brings this Representative Action on behalf of the State of California  
4 with respect to herself and all other individuals who are or previously were employed by  
5 DEFENDANT in California in the position of sales associate and were not provided with a  
6 seat/stool during the time period of December 5, 2016 until the present (the "AGGRIEVED  
7 EMPLOYEES"). On or about February 1, 2017, PLAINTIFF gave written notice via the online  
8 process to Labor and Workforce Development Agency (the "Agency"), and via certified mail  
9 to the employer, of the specific provisions of this code alleged to have been violated as required  
10 by Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference  
11 herein. The statutory waiting period for PLAINTIFF to add these allegations to the Complaint  
12 has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a  
13 representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of  
14 California with respect to all AGGRIEVED EMPLOYEES as herein defined.

15 5. The true names and capacities, whether individual, corporate, subsidiary,  
16 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
17 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
18 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
19 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
20 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
21 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
22 responsible in some manner for one or more of the events and happenings that proximately  
23 caused the injuries and damages hereinafter alleged.

24 6. The agents, servants and/or employees of the Defendants and each of them acting  
25 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
26 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
27 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.

1 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
2 all Defendants are jointly and severally liable to the PLAINTIFF and the other Aggrieved  
3 Employees, for the loss sustained as a proximate result of the conduct of the Defendants' agents,  
4 servants and/or employees.

### 5 6 THE CONDUCT

7 7. PLAINTIFF alleges that the sales associate counters in DEFENDANT's  
8 California stores are generally similar in their layout and design and that there is ample space  
9 behind each counter area to allow for the presence and use of a stool or seat by DEFENDANT's  
10 sales associates during the performance of their work duties. DEFENDANT's sales associates  
11 working at DEFENDANT's locations spend a very substantial portion, and, in many workdays,  
12 the vast majority of their working time behind these counters. The nature of the sales associate  
13 position can reasonably be accomplished while using a seat/stool.

14 8. In violation of the applicable sections of the California Labor Code and the  
15 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
16 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly  
17 and systematically failed to provide PLAINTIFF and the other Aggrieved Employees suitable  
18 seating when the nature of these employees' work reasonably permitted sitting.

19 9. Defendants knew or should have known that PLAINTIFF and other Aggrieved  
20 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere  
21 with the performance of their duties, and that DEFENDANT did not provide suitable seating  
22 and/or did not allow them to sit when it did not interfere with the performance of their duties.

23 10. By reason of this conduct applicable to PLAINTIFF and all Aggrieved  
24 Employees, DEFENDANT violated California Labor Code Section 1198 and Wage Order 4-  
25 2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties on behalf of  
26 herself and other Aggrieved Employees as provided herein. Providing suitable seating is the  
27 DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation  
28



1 to meet this burden, DEFENDANT violated the California Labor Code and regulations  
2 promulgated thereunder as herein alleged.

### 3 4 JURISDICTION AND VENUE

5 11. This Court has jurisdiction over this Action pursuant to California Code of  
6 Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

7 12. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
8 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides  
9 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained  
10 offices and facilities in this County and/or conducts substantial business in this County, and (ii)  
11 committed the wrongful conduct herein alleged in this County against other Aggrieved  
12 Employees.

### 13 FIRST CAUSE OF ACTION

#### 14 **For Failure to Provide Suitable Seating**

15 [Cal. Lab. Code § 1198, et seq. & California Code of Regulations, Title 8, Section  
16 11070(14)]

17 **(By PLAINTIFF and the AGGRIEVED EMPLOYEES and Against All Defendants)**

18 13. PLAINTIFF, and the other members of the AGGRIEVED EMPLOYEES,  
19 reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through  
20 12 of this Complaint.

21 14. California Labor Code section 1198 makes it illegal to employ an employee under  
22 conditions of labor that are prohibited by the applicable wage order.

23 15. California Labor Code section 1198 requires that "... the standard conditions of  
24 labor fixed by the commission shall be the ... standard conditions of labor for employees. The  
25 employment of any employee ... under conditions of labor prohibited by the order is unlawful."

26 16. California Code of Regulations, Title 8, section 11070(14)(A) provides that "[a]ll  
27 working employees shall be provided with suitable seats when the nature of the work  
28

1 reasonably permits the use of seats."

2 17. California Code of Regulations, Title 8, section 11070(14)(B) provides that  
3 "[w]hen employees are not engaged in the active duties of their employment and the nature of  
4 the work requires standing, an adequate number of suitable seats shall be placed in reasonable  
5 proximity to the work area and employees shall be permitted to use such seats when it does not  
6 interfere with the performance of their duties."

7 18. DEFENDANT violated California Labor Code section 1198 and California Code  
8 of Regulations, Title 8, section 11070(14) because PLAINTIFF and AGGRIEVED  
9 EMPLOYEES members were not permitted to sit, even if they were not engaged in active  
10 duties. They were not permitted to sit, even when it would not interfere with the performance  
11 of their duties, nor were they provided with suitable seats.

12 19. PLAINTIFF and AGGRIEVED EMPLOYEES members are entitled to recover  
13 all remedies available for violations of California Labor Code section 1198 and California Code  
14 of Regulations, Title 8, section 11070(14).

15 20. Pursuant to the civil penalties provided for in California Labor Code sections  
16 2699 (f) and (g), the State of California, PLAINTIFF and other aggrieved employees are  
17 entitled to recover civil penalties of one hundred dollars (\$100) for each aggrieved employee  
18 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved  
19 employee per pay period for each subsequent violation, plus costs and attorneys' fees for  
20 violation of California Labor Code section 1198.

21  
22 **SECOND CAUSE OF ACTION**

23 **For Violation of the Private Attorneys General Act**

24 **[Cal. Lab. Code §§ 2698, et seq.]**

25 **(By PLAINTIFF and Against All Defendants)**

26 21. PLAINTIFF incorporates by reference the allegations set forth in paragraphs 1-40,  
27 supra, as though fully set forth at this point.

1           22. PAGA is a mechanism by which the State of California itself can enforce state  
2 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the  
3 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
4 fundamentally a law enforcement action designed to protect the public and not to benefit private  
5 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a  
6 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In  
7 enacting PAGA, the California Legislature specified that "it was ... in the public interest to  
8 allow aggrieved employees, acting as private attorneys general to recover civil penalties for  
9 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be  
10 subject to arbitration.

11           23. PLAINTIFF brings this Representative Action on behalf of the State of California  
12 with respect to herself and all other individuals who are or previously were employed by  
13 DEFENDANT in California in the position of sales associate and were not provided with a  
14 seat/stool during the time period of December 5, 2016 until the present (the "AGGRIEVED  
15 EMPLOYEES"). DEFENDANT as a matter of company policy, practice and procedure,  
16 intentionally, knowingly and systematically failed to provide PLAINTIFF and the other  
17 AGGRIEVED EMPLOYEES suitable seating when the nature of these employees' work  
18 reasonably permitted sitting as required by California law.

19           24. The policies, acts and practices heretofore described were and are an unlawful  
20 business act or practice and was in violation of the applicable Labor Code sections listed in  
21 Labor Code §2699.5, including sections 256, 558, 1198 and the applicable Industrial Wage  
22 Order 4-2001, Section 14 and thereby gives rise to statutory penalties as a result of such  
23 conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code  
24 Private Attorney General Act of 2004 as the representative of the State of California for the  
25 illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

**PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004, the applicable Wage Order, and/or Labor Code §1198.

2. On all claims:

A) An award of interest, including prejudgment interest at the legal rate;

B) Such other and further relief as the Court deems just and equitable; and,

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §1198.

Dated: April 10, 2017

BLUMENTHAL, NORDREHAUG & BHOWMIK LLP

By: 

Norman B. Blumenthal  
Attorneys for Plaintiff

**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: April 10, 2017

BLUMENTHAL, NORDREHAUG & BHOWMIK LLP

By. 

Norman B. Blumenthal  
Attorneys for Plaintiff

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EXHIBIT #1

FACSIMILE  
(858) 551-1232

**BLUMENTHAL, NORDREHAUG & BHOWMIK LLP**

2255 CALLE CLARA  
LA JOLLA, CALIFORNIA 92037  
Web Site: [www.bamlawca.com](http://www.bamlawca.com)

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Chicago

TELEPHONES  
(858) 551-1223

WRITERS E-MAIL:  
[Nick@bamlawca.com](mailto:Nick@bamlawca.com)

WRITERS EXT:  
5

February 1, 2017  
CA1253

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

|   |  |
|---|--|
| Labor and Workforce Development Agency<br>Online Filing | Fedex Office and Print Services, Inc.<br>Certified Mail # 70142120000378196311<br>CT Corporation System<br>818 West 7 <sup>th</sup> Street, Suite 930<br>Los Angeles, CA 90017 |
|---|--|

Re: Notice Of Violations Of California Labor Code Section § 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

Our offices represent Plaintiff Jeanetta Johnson ("Plaintiff"), and other aggrieved employees in a proposed lawsuit against Fedex Office and Print Services, Inc. ("Defendant"). Plaintiff was employed by Defendant as a Sales Associate from April of 2005 to May of 2016.

In connection with Plaintiff's job as a sales associate, Plaintiff regularly worked behind a sales counter, as did other sales associates. From July 2012 to December of 2015, Plaintiff worked at Defendant's store located at 9889 San Pablo Ave., El Cerrito, CA 94530. From December of 2015 to May of 2016, Plaintiff worked at Defendant's store located at 5895 Christie Ave., Emeryville, CA 94608. Plaintiff performed the same tasks at each location she worked for Defendant, these tasks reasonably permitted sitting, and a seat would not have interfered with Plaintiff's performance of any of her tasks that may have required her to stand. Defendant failed to provide Plaintiff and other aggrieved employees with a suitable seat at both locations she worked for Defendant. Said conduct, in addition to the foregoing, violates Labor Code § 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3.

A true and correct copy of the proposed Complaint to be filed by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable the Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code § 2695, *et seq.* The filing fee of \$75 is being mailed to the Department of Industrial Relations Accounting unit with an identification of the Plaintiff, the Defendant and the notice. The proposed lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

**BLUMENTHAL, NORDREHAUG & BHOWMIK LLP**

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: [www.bamlawca.com](http://www.bamlawca.com)

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ALAMEDA**

JEANETTA JOHNSON, an individual on  
behalf of himself and on behalf of all  
persons similarly situated,

Plaintiff,

vs.

FEDEX OFFICE AND PRINT  
SERVICES, INC., a Corporation; and  
Does 1 through 50, Inclusive,

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT FOR:**

1. VIOLATION OF CALIFORNIA  
LABOR CODE § 1198 AND  
CALIFORNIA CODE OF  
REGULATIONS, TITLE 8, SECTION 1  
1070(14) (FAILURE TO PROVIDE  
SEATING); and,

2. VIOLATION OF THE PRIVATE  
ATTORNEYS GENERAL ACT  
[LABOR CODE §§ 2698 et seq.].

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Jeanetta Johnson ("PLAINTIFF"), an individual on behalf of herself, on behalf  
2 of the State of California pursuant to the Private Attorney General Act of 2004, Cal. Lab. Code  
3 § 2698, *et seq.* ("PAGA"), and all other similarly situated current and former aggrieved  
4 employees, alleges on information and belief, except for her own acts and knowledge which are  
5 based on personal knowledge, the following:

6  
7 **THE PARTIES**

8 1. Defendant Fedex Office and Print Services, Inc. ("DEFENDANT") at all relevant  
9 times mentioned herein conducted and continues to conduct substantial and regular business  
10 throughout the State of California.

11 2. DEFENDANT has duplicated its business formula many times over.  
12 DEFENDANT operates some 1,800 stores in the United States. DEFENDANT's stores provide  
13 printing and duplication, presentation support, and related business assistance, and serve as  
14 drop-off points for deliveries to be made by sister companies FedEx Express and FedEx  
15 Ground. DEFENDANT's stores also sell office supplies and rent computers and  
16 videoconferencing rooms. FedEx Office has traditionally targeted small business and home  
17 offices, and individual consumers.

18 3. PLAINTIFF was employed by DEFENDANT in California as a sales associate  
19 from April of 2005 to May of 2016. In connection with her job as a sales associate,  
20 PLAINTIFF regularly worked behind a sales counter, as did other sales associates. From July  
21 2012 to December of 2015, PLAINTIFF worked at DEFENDANT's store located at 9889 San  
22 Pablo Ave., El Cerrito, CA 94530. From December of 2015 to May of 2016, PLAINTIFF  
23 worked at DEFENDANT's store located at 5895 Christie Ave., Emeryville, CA 94608.  
24 PLAINTIFF performed the same tasks at each location she worked for DEFENDANT, these  
25 tasks reasonably permitted sitting, and a seat would not have interfered with PLAINTIFF's  
26 performance of any of her tasks that may have required her to stand. DEFENDANT failed to  
27 provide PLAINTIFF with a suitable seat at both locations she worked for DEFENDANT. The  
28 amount in controversy for PLAINTIFF individually does not exceed the sum or value of



1 \$75,000.

2 4. PLAINTIFF brings this Representative Action on behalf of the State of California  
3 with respect to herself and all other individuals who are or previously were employed by  
4 DEFENDANT in California in the position of sales associate and were not provided with a  
5 seat/stool during the time period of December 5, 2016 until the present (the "AGGRIEVED  
6 EMPLOYEES").

7 5. The true names and capacities, whether individual, corporate, subsidiary,  
8 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
9 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
10 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
11 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
12 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
13 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
14 responsible in some manner for one or more of the events and happenings that proximately  
15 caused the injuries and damages hereinafter alleged.

16 6. The agents, servants and/or employees of the Defendants and each of them acting  
17 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
18 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
19 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
20 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
21 all Defendants are jointly and severally liable to the PLAINTIFF and the other Aggrieved  
22 Employees, for the loss sustained as a proximate result of the conduct of the Defendants' agents,  
23 servants and/or employees.

24  
25 **THE CONDUCT**

26 7. PLAINTIFF alleges that the sales associate counters in DEFENDANT's  
27 California stores are generally similar in their layout and design and that there is ample space  
28 behind each counter area to allow for the presence and use of a stool or seat by DEFENDANT's

1 sales associates during the performance of their work duties. DEFENDANT's sales associates  
2 working at DEFENDANT's locations spend a very substantial portion, and, in many workdays,  
3 the vast majority of their working time behind these counters. The nature of the sales associate  
4 position can reasonably be accomplished while using a seat/stool.

5 8. In violation of the applicable sections of the California Labor Code and the  
6 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
7 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly  
8 and systematically failed to provide PLAINTIFF and the other Aggrieved Employees suitable  
9 seating when the nature of these employees' work reasonably permitted sitting.

10 9. Defendants knew or should have known that PLAINTIFF and other Aggrieved  
11 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere  
12 with the performance of their duties, and that DEFENDANT did not provide suitable seating  
13 and/or did not allow them to sit when it did not interfere with the performance of their duties.

14 10. By reason of this conduct applicable to PLAINTIFF and all Aggrieved  
15 Employees, DEFENDANT violated California Labor Code Section 1198 and Wage Order 4-  
16 2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties on behalf of  
17 herself and other Aggrieved Employees as provided herein. Providing suitable seating is the  
18 DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation  
19 to meet this burden, DEFENDANT violated the California Labor Code and regulations  
20 promulgated thereunder as herein alleged.

21  
22 **JURISDICTION AND VENUE**

23 11. This Court has jurisdiction over this Action pursuant to California Code of  
24 Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

25 12. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
26 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides  
27 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained  
28 offices and facilities in this County and/or conducts substantial business in this County, and (ii)

1 committed the wrongful conduct herein alleged in this County against other Aggrieved  
2 Employees.

3  
4 **FIRST CAUSE OF ACTION**

5 **For Failure to Provide Suitable Seating**

6 **[Cal. Lab. Code § 1198, et seq. & California Code of Regulations, Title 8, Section**  
7 **11070(14)]**

8 **(By PLAINTIFF and the AGGRIEVED EMPLOYEES and Against All Defendants)**

9 13. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
10 reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through  
11 12 of this Complaint.

12 14. California Labor Code section 1198 makes it illegal to employ an employee under  
13 conditions of labor that are prohibited by the applicable wage order.

14 15. California Labor Code section 1198 requires that "... the standard conditions of  
15 labor fixed by the commission shall be the ... standard conditions of labor for employees. The  
16 employment of any employee ... under conditions of labor prohibited by the order is unlawful."

17 16. California Code of Regulations, Title 8, section 11070(14)(A) provides that "[a]ll  
18 working employees shall be provided with suitable seats when the nature of the work  
19 reasonably permits the use of seats."

20 17. California Code of Regulations, Title 8, section 11070(14)(B) provides that  
21 "[w]hen employees are not engaged in the active duties of their employment and the nature of  
22 the work requires standing, an adequate number of suitable seats shall be placed in reasonable  
23 proximity to the work area and employees shall be permitted to use such seats when it does not  
24 interfere with the performance of their duties."

25 18. DEFENDANT violated California Labor Code section 1198 and California Code  
26 of Regulations, Title 8, section 11070(14) because PLAINTIFF and CALIFORNIA CLASS  
27 members were not permitted to sit, even if they were not engaged in active duties. They were  
28 not permitted to sit, even when it would not interfere with the performance of their duties, nor

1 were they provided with suitable seats.

2 19. PLAINTIFF and CALIFORNIA CLASS members are entitled to recover all  
3 remedies available for violations of California Labor Code section 1198 and California Code  
4 of Regulations, Title 8, section 11070(14).

5 20. Pursuant to the civil penalties provided for in California Labor Code sections  
6 2699 (f) and (g), the State of California, PLAINTIFF and other aggrieved employees are  
7 entitled to recover civil penalties of one hundred dollars (\$100) for each aggrieved employee  
8 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved  
9 employee per pay period for each subsequent violation, plus costs and attorneys' fees for  
10 violation of California Labor Code section 1198.

11  
12 **SECOND CAUSE OF ACTION**

13 **For Violation of the Private Attorneys General Act**

14 **[Cal. Lab. Code §§ 2698, et seq.]**

15 **(By PLAINTIFF and Against All Defendants)**

16 21. PLAINTIFF incorporates by reference the allegations set forth in paragraphs 1-40,  
17 supra, as though fully set forth at this point.

18 22. PAGA is a mechanism by which the State of California itself can enforce state  
19 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the  
20 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
21 fundamentally a law enforcement action designed to protect the public and not to benefit private  
22 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a  
23 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In  
24 enacting PAGA, the California Legislature specified that "it was ... in the public interest to  
25 allow aggrieved employees, acting as private attorneys general to recover civil penalties for  
26 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be  
27 subject to arbitration.

28 23. PLAINTIFF brings this Representative Action on behalf of the State of California

1 with respect to herself and all other individuals who are or previously were employed by  
 2 DEFENDANT in California in the position of sales associate and were not provided with a  
 3 seat/stool during the time period of December 5, 2016 until the present(the "AGGRIEVED  
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 5 intentionally, knowingly and systematically failed to provide PLAINTIFF and the other  
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8 24. The policies, acts and practices heretofore described were and are an unlawful  
 9 business act or practice and was in violation of the applicable Labor Code sections listed in  
 10 Labor Code §2699.5, including section 256, 558, 1198 and the applicable Industrial Wage  
 11 Order 4-2001, Section 14 and thereby gives rise to statutory penalties as a result of such  
 12 conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code  
 13 Private Attorney General Act of 2004 as the representative of the State of California for the  
 14 illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

#### 15 PRAYER FOR RELIEF

16 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and  
 17 severally, as follows:

18 1. On behalf of the State of California and with respect to all AGGRIEVED  
 19 EMPLOYEES:

20 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys  
 21 General Act of 2004.

22 2. On all claims:

23 A) An award of interest, including prejudgment interest at the legal rate;

24 B) Such other and further relief as the Court deems just and equitable; and,

25 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the  
 26 law, including, but not limited to, pursuant to Labor Code §1198.  
 27  
 28



1 Dated: February 1, 2017

BLUMENTHAL, NORDREHAUG & BHOWMIK LLP

2  
3 By: \_\_\_\_\_

4 Norman B. Blumenthal  
5 Attorneys for Plaintiff  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: February 1, 2017

BLUMENTHAL, NORDREHAUG & BHOWMIK LLP

By: \_\_\_\_\_

Norman B. Blumenthal  
Attorneys for Plaintiff

K:\D\Dropbox\Pending Litigation\FedEx Office - Johnson\p-Complaint-Draft.wpd

**Kyle Nordrehaug**

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**From:** noreply@salesforce.com on behalf of LWDA DO NOT REPLY  
**Sent:** Wednesday, February 01, 2017 12:11 PM  
**To:** deblouw@bamlawca.com  
**Subject:** Thank you for submission of your PAGA Case.

2/1/2017

LWDA Case No. LWDA-CM-211011-17

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

| SENDER: COMPLETE THIS SECTION   |  | COMPLETE THIS SECTION ON DELIVERY   |  |
|---|--|---|--|
| <p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> |  | <p>A. Signature<br/> <b>CT CORPORATION SYSTEM</b> <input type="checkbox"/> Agent<br/> <b>818 West Seventh Street</b> <input type="checkbox"/> Addressee</p>   |  |
| <p>1. Article Addressed to:</p> <p><b>Fedex Office's Print Services</b><br/> <b>CT Corporation System</b><br/> <b>818 West 7<sup>th</sup> Street, st. 930</b><br/> <b>Los Angeles, CA 90017</b><br/> <b>CA1253</b></p>  |  | <p>B. Received by (Printed Name) <b>SALE 930</b> C. Date of Delivery <b>05/17</b></p> <p><b>Los Angeles, CA 90017</b></p>   |  |
|   |  | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br/>         If YES, enter delivery address below: <input type="checkbox"/> No</p>  |  |
|   |  | <p>3. Service Type<br/> <input checked="" type="checkbox"/> Certified Mail® <input checked="" type="checkbox"/> Priority Mail Express™<br/> <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise<br/> <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p> |  |
|   |  | <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>   |  |
| <p>2. Article (Transit)</p> <p><b>7014 2120 0003 7519 6311</b></p>  |  |   |  |
| PS Form 3811, July 2013   |  | Domestic Return Receipt   |  |

Blumenthal, Nordrehaug & Bhowmik  
 Attn: Blumenthal, Norman M.  
 2255 Calle Clara  
 La Jolla, CA 92037

## Superior Court of California, County of Alameda

Johnson

Plaintiff/Petitioner(s)

VS.

Fedex Office and Print Services, Inc.

Defendant/Respondent(s)

(Abbreviated Title)

No. RG17856291

**NOTICE OF CASE MANAGEMENT  
 CONFERENCE AND ORDER**  
 Unlimited Jurisdiction

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

Notice is given that a Case Management Conference has been scheduled as follows:

|  |  |  |
|--|--|--|
| Date: <b>08/31/2017</b><br>Time: <b>02:00 PM</b> | Department: <b>20</b><br>Location: <b>Administration Building<br/>         Fourth Floor<br/>         1221 Oak Street, Oakland CA 94612</b><br><br>Internet: <b>www.alameda.courts.ca.gov</b> | Judge: <b>Paul D. Herbert</b><br>Clerk: <b>Reshma Mishra</b><br>Clerk telephone: <b>(510) 267-6936</b><br>E-mail: <b>Dept.20@alameda.courts.ca.gov</b><br>Fax: <b>(510) 267-1576</b> |
|--|--|--|

### ORDERS

1. **Plaintiff must:**
  - a. **Serve** all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (Cal. Rules of Court, 3.110(b)); and
  - b. **Give notice** of this conference to all other parties and file proof of service.
2. **Defendant must** respond as stated on the summons.
3. **All parties who have appeared before the date of the conference must:**
  - a. **Meet and confer**, in person or by telephone as required by Cal. Rules of Court, rule 3.724;
  - b. **File and serve** a completed *Case Management Statement* on Form CM-110 at least **15** days before the Case Management Conference (Cal. Rules of Court, rule 3.725); and
  - c. **Post jury fees** as required by Code of Civil Procedure section 631.
4. If you do not follow the orders above, the court may issue an order to show cause why you should not be sanctioned under Cal. Rules of Court, rule 2.30. Sanctions may include monetary sanctions, striking pleadings or dismissal of the action.
5. You are further ordered to appear in person or through your attorney of record at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed. You may be able to appear at Case Management Conferences by telephone. Contact CourtCall, an independent vendor, at least three business days before the scheduled conference. Call 1-888-882-6878, or fax a service request to (888) 882-2946. The vendor charges for this service.
6. You may file *Case Management Conference Statements* by E-Delivery. Submit them directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to [www.alameda.courts.ca.gov/ff](http://www.alameda.courts.ca.gov/ff).
7. The judge may place a *Tentative Case Management Order* in your case's on-line register of actions before the conference. This order may establish a discovery schedule, set a trial date or refer the case to Alternate Dispute Resolution, such as mediation or arbitration. Check the website of each assigned department for procedures regarding tentative case management orders at [www.alameda.courts.ca.gov/dc](http://www.alameda.courts.ca.gov/dc).



---

**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 04/17/2017.

By  digital

Deputy Clerk

***Superior Court of California, County of Alameda***



***Notice of Assignment of Judge for All Purposes  
February 1, 2017***

Case Number: RG17856291

Case Title: Johnson VS Fedex Office and Print Services, Inc.

Date of Filing: 04/11/2017

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

**Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:**

|                       |   |
|-----------------------|---|
| <b>Judge:</b>         | <b>Paul D. Herbert</b>  |
| <b>Department:</b>    | <b>20</b>   |
| <b>Address:</b>       | <b>Administration Building<br/>1221 Oak Street<br/>Oakland CA 94612</b> |
| <b>Phone Number:</b>  | <b>(510) 267-6936</b>   |
| <b>Fax Number:</b>    | <b>(510) 267-1576</b>   |
| <b>Email Address:</b> | <b>Dept.20@alameda.courts.ca.gov</b>                                    |

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

**Please note: In this case, any challenge pursuant to Code of Civil Procedure section 170.6 must be exercised within the time period provided by law. (See Code Civ. Proc. §§ 170.6, subd. (a)(2) and 1013.)**

**NOTICE OF NONAVAILABILITY OF COURT REPORTERS:** Effective June 4, 2012, the court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). Parties may arrange and pay for the attendance of a certified shorthand reporter. In limited jurisdiction cases, parties may request electronic recording.

Amended Local Rule 3.95 states: "Except as otherwise required by law, in general civil case and probate departments, the services of an official court reporter are not normally available. For civil trials, each party must serve and file a statement before the trial date indicating whether the party requests the presence of an official court reporter."

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY

OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

### **General Procedures**

Following assignment of a civil case to a specific department, all pleadings, papers, forms, documents and writings can be submitted for filing at either Civil Clerk's Office, located at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California, 94612, George E. McDonald Hall of Justice, 2233 Shoreline Drive, Alameda, California, 94501 and the Hayward Hall of Justice, 24405 Amador Street, Hayward, California, 94544. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO  
JUDGE Paul D. Herbert  
DEPARTMENT 20

All parties are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at: [http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules\(1\)](http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules(1)) and with the California Rules of Court, which are available at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processes (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days". Plaintiff received that form in the ADR information package at the time the complaint was filed. The court's Web site also contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

Email is the preferred method of communicating with court staff in Department 20, particularly for scheduling of law and motion, ex parte application, and case management events. Telephone communications are possible, but use of email will greatly facilitate a prompt response to your inquiries. When a copy of a document must be transmitted to court staff, an email attachment is preferable to fax. Use of an email attachment or fax, however, is not a substitute for filing of pleadings or other documents. All email communications should be copied to all parties for whom an email address is available, so inclusion of available email addresses in the caption of all filed papers, as required by California Rule of Court 2.111(1) is critical. Paper courtesy copies of all documents filed in connection with law & motion matters must be delivered directly to Department 20 as close to the time of filing as practicable.

### **Schedule for Department 20**

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions.

- Case Management Conferences are held: Thursdays beginning at 2:00 p.m. and Fridays beginning at 10:00 a.m., 11:00 a.m. and 2:00 p.m.
- Law and Motion matters are heard: Thursdays beginning at 2:00 p.m. and Fridays beginning at 10:00 a.m., 11:00 a.m. and 2:00 p.m. (Reservations required)
- Settlement Conferences are heard: Set on Case Specific Basis
- Ex Parte matters are heard: 3:30 p.m. Monday - Friday (Reservations required)

### Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations  
Email: Dept.20@alameda.courts.ca.gov
- Ex Parte Matters  
Email: Dept.20@alameda.courts.ca.gov

### Tentative Rulings

The court may issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: [www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb), Calendar Information for Dept. 20
- Phone: 1-866-223-2244

Dated: 04/14/2017

  
facsimile

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Presiding Judge,  
Superior Court of California, County of Alameda

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### CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 04/17/2017

By

  
digital

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Deputy Clerk